

## **IV. E. Substantive vs Administrative Requirements**

# **CERCLA Section 121(e)**

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- “No Federal, State, or local permit shall be required for the portion of any removal or remedial action conducted entirely onsite...selected and carried out in compliance with this section.”
- Exemption applies to all administrative requirements, whether or not they are actually styled as “permits”

*Substantive vs Administrative*

# Why Not Comply with Administrative Requirements?

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- Redundant
- Too slow
- Jurisdictional overlap

*Substantive vs Administrative*

# Substantive vs Administrative Requirements

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- Substantive requirements pertain directly to actions or conditions in environment that directly influence activity at site
- Administrative requirements pertain to administrative methods & procedures

*Substantive vs Administrative*

# Determining Whether a Requirement Is Substantive or Administrative

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Consider:

- Basic purpose of requirement
- Potential danger to human health & environment if requirement is not met
- Existence of other requirements at site that would provide functionally equivalent compliance
- Classification of similar or identical requirements as substantive or administrative in other CERCLA situations

*Substantive vs Administrative*